

MAR 16 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Ellen BEASLEY et al.

Art Unit: 1633

Serial No.: 10/633,631

Examiner: Hill, K.

Filed: August 5, 2003

Atty. Docket: CL001078-DIV

For: ISOLATED HUMAN KINASE PROTEINS,
NUCLEIC ACID MOLECULES ENCODING
HUMAN KINASE PROTEINS, AND USES
THEREOF

*See applied
only*

PRELIMINARY AMENDMENT

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

By Facsimile

Sir:

This is in response to an Office Action mailed on February 16, 2006 from Examiner Hill in which a restriction requirement was issued for the above-referenced application.

In response to the restriction requirement, Applicants hereby elect, with traverse, claim group II (claim 3, drawn to antibodies) for examination and have canceled claims corresponding to the non-elected groups III-VIII.

However, applicants respectfully request that the Examiner reconsider the claim division of the restriction requirement and combine group II (drawn to antibodies) with group I (drawn to polypeptides).

In particular, examination of the antibody claims of group II, in which the antibodies claimed in the group II claims selectively bind the polypeptides that are claimed in the group I claims (as in the instant situation), is based in part on search and examination of the amino acid sequence of the polypeptides claimed in the group I claims. Therefore, because the search and examination necessary to examine the claims of group II inherently includes a search of the amino acid sequence of the polypeptides

claimed in the group I claims, a search and examination of the group II claims inherently includes a search and examination of the group I claims. Thus, it is believed that the effort required to search and examine both groups I and II together is not substantially greater than the effort required to search and examine group II alone, and therefore search and examination of the claims of groups I and II combined would not unduly burden the Examiner with additional review issues.

Accordingly, Applicants are hereby amending claim 3 and presenting new claims 24-36 drawn to antibodies and respectfully request entry, search, and examination of these antibody claims. Additionally, should the Examiner reconsider the restriction requirement based on the above remarks and combine group I (polypeptides) with group II (antibodies), Applicants are also hereby amending claims 1-2 and presenting new claims 37-38 drawn to polypeptides and respectfully request entry, search, and examination of these polypeptide claims together with the antibody claims.

The USPTO is authorized to charge any necessary claim fees to deposit account number 50-0970.

Please amend the application as follows:

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REMARKS

By way of the above amendments, claims 1-3 have been amended, claims 4-23 have been canceled, and claims 24-38 have been added. As such, claims 1-3 and 24-38 are presently pending.

The amendments to the claims and the newly added claims add no new subject matter and their entry is respectfully requested.

Applicants respectfully assert that the claims are in condition for examination on the merits.

Respectfully submitted,

CELERA GENOMICS

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Date: March 16, 2006

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